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**Supreme Court of the United States**

**OCTOBER TERM, 1945**

**No. 52**

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**BETTER BUSINESS BUREAU OF WASHINGTON,  
D. C., INC., PETITIONER,**

**v.s.**

**THE UNITED STATES OF AMERICA**

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**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE DISTRICT OF COLUMBIA**

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**PETITION FOR CERTIORARI FILED MARCH 25, 1945.**

**CERTIORARI GRANTED APRIL 29, 1945.**

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 52

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D. C., INC., PETITIONER,

v.s.

THE UNITED STATES OF AMERICA

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APPEALS FOR THE DISTRICT OF COLUMBIA

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JUDD & DETWILER (INC.), PRINTERS, WASHINGTON, D. C., JULY 9, 1945.

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[fol. 1]

[Caption omitted]

[fol. 2]

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF COLUMBIA**

Civil Action No. 17271

BETTER BUSINESS BUREAU OF WASHINGTON, D. C., INC., EVENING STAR BUILDING, Plaintiff,

v.

**THE UNITED STATES, Defendant**

COMPLAINT—Filed September 30, 1942

For the Refund of Social Security Taxes

The Petition of the Better Business Bureau of Washington, D. C. Inc. respectfully represents:

I

That it is a corporation organized on the 10th day of August, 1920, under the corporate laws of the District of Columbia, Act of March 3, 1901, 31 Stat. Ch. 854, par. 599; Ch. 6, p. 834 D. C. Code (1940), and has existed continuously since the aforesaid date of organization and still continues to operate under said laws, reference being hereby made to its charter and amendments thereto filed in the office of the Recorder of Deeds of the District of Columbia as required by law, numbers 15823, 15846, 17644, and 25146, which are prayed to be considered a part of this Petition.

II

That this Court has jurisdiction by virtue of the fact that the controversy arises under the revenue laws of the United States of America and that this Court is given jurisdiction over such controversies by the acts of Congress and specifically by 28 USCA c. 2, Sec. 41 (5) See. 563; par. 5; Section 629, par. 4, March 3, 1911, c. 231, Sec. 24 par. 5, 36 Stat. 1092, etc.

[fol. 3]

## III

That this Plaintiff is incorporated as an educational, scientific and civic corporation under the above mentioned Act of Congress (Paragraph I); that the purpose or purposes for which it was chartered as disclosed by the Articles of Incorporation on file in the office of the Recorder of Deeds of the District of Columbia are as follows:

"That the corporate name of the organization shall be the "Better Business Bureau of the District of Columbia" and the object for which it is formed is for the mutual welfare, protection and improvement of business methods among merchants and other persons engaged in any and all business or professions and occupations of every description whatsoever that deal directly or indirectly with the public at large, and for the educational and scientific advancements of business methods among persons, corporations or associations engaged in business in the District of Columbia so that the public can obtain a proper, clean, honest and fair treatment in its dealings or transactions with such merchants, tradesmen, corporations, associations or persons following a profession and at the same time protecting the interest of the latter classes of businesses to enable such as are engaged in the same to successfully and profitably conduct their business and for the further purpose of endeavoring to obtain the proper, just, fair and effective enforcement of the Act of Congress approved May 29th, 1916, otherwise known as "An Act to prevent fraudulent advertising in the District of Columbia."

under which this Plaintiff has continuously since its organization confined its operations.

## IV

The Plaintiff operates as an educational, scientific and civic organization, and is supported by voluntary subscriptions only, the amounts of the same varying according to the assent of the subscriber, and this organization is conducted without any profit to any individual or corporate member thereof, it having no capital stock, and the only salaries paid by it are those paid to its Director who is the General Manager, and those employed under him to carry out the work created by the powers contained in its

aforesaid charter and by-laws formulated thereunder, all officers and directors of this Plaintiff corporation serving voluntarily and without any compensation.

## V

That the Plaintiff furnishes information to members and non-members of the corporation without discrimination and charges no fee to any one; that it has attempted to educate and inform merchants, manufacturers, bankers and consumers as to honest, fair and legitimate advertising and business methods, and to protect the consumer from fraud, misrepresentation or other injustice and has by every means within its power attempted to discourage unfair competition and unfair dealings with the public.

## VI

That this Plaintiff is exempt from the payment of taxation on its income under the Income Tax Laws of the District of Columbia and the United States on the ground:

"That it is a corporation organized and operated exclusively for scientific, educational and civic purposes; and no part of its net earnings inures to the benefit of any private shareholder or individual, and it being a non-profit organization, operating by voluntary subscriptions." (Act of July 26, 1939, 53 Stat. 1087, Ch. 367, Title 2, par. 2; July 2, 1940, 50 Stat. 734, Ch. 524, Title 2; and Section 101 (7) of the Federal Income Tax Act of 1938; Ch. 1 Internal Revenue Code, approved February 10, 1939, respectively).

[fol. 5]

## VII

That the Federal Social Security Act approved August 14, 1935, and amendments thereto, contains what is commonly referred to as Title VIII, being Chap. 531, Title VIII, Sections 801 to 811, inclusive, 49 Stat. 636 to 639; that said act imposes upon the employer a tax of one per cent of the wages paid to employees, by such employer during the years of 1937, 1938, 1939, 1940 and 1941, and imposes a tax of one per cent during the aforesaid years upon the wages received by employees; that said tax is limited, however, to the first \$3,000.00 paid to, or received by an employee during the calendar year, and provides that the employer shall deduct from the employees' wages the taxes imposed upon the employees, and that the employer shall

4  
remit with the taxes imposed upon him, or it, the amount so deducted as a tax upon his employees' wages.

## VIII

That the Commissioner of Internal Revenue (through the Collector of Internal Revenue at Baltimore, Maryland), acting for and on behalf of the United States, and assuming to act as such and under the provisions of the aforesaid Act, arbitrarily assessed and collected from this Plaintiff corporation such sums of money for the purposes of the aforesaid Act upon the theory that this Plaintiff was subject to the requirements and provisions of the same, which payment of monies is otherwise commonly known as "the Social Security Tax," and which were as follows:

Social Security Taxes assessed and collected for the

Calendar Year of 1937	\$209.01
" " " 1938	294.91
" " " 1939	274.08
" " " 1940	255.56
" " " 1941	292.98
Total	\$1326.54

[fol. 6] That in order to avoid penalties and other punishment for non-compliance of such demands for the above mentioned Social Security Taxes, this Plaintiff did make the above mentioned payments as hereinbefore stated to the Commissioner of Internal Revenue, (through the Collector of Internal Revenue, Baltimore, Maryland), aforesaid, as required by it and on the dates and in the amounts prescribed by it, all of which monies were turned in to the United States Treasury in due course by the said Defendant, and now remain therein, as shown by the records of the Commissioner of Internal Revenue, Treasury Department, hereby referred to and prayed to be considered a part of this Petition, consisting of the assessment returns, records of payment and receipts of the Collector of Internal Revenue.

## IX

That on or about January 25, 1941 and February 7, 1942 the Plaintiff duly filed with the Commissioner of Internal Revenue claims for refund for the aforesaid Social Security

Taxes in the sum of \$1,033.56 and \$292.98, totaling the sum of \$1,326.54, as provided by Sections 3220 and 3228 of the U. S. Revised Statutes, and Section 1422 of Ch. 9, sub-ch. A of the Social Security Act as amended, on Form No. 843 prescribed by the regulations of the Bureau of Internal Revenue for this purpose covering the calendar years from January 1, 1937 to December 31, 1940 and for the calendar year of 1941, claiming the refund of the aforesaid Social Security Taxes on the ground that they were erroneous and illegal, as this Plaintiff corporation was and is being conducted as an educational, scientific and civic corporation and therefore exempt from taxation under Sec. 1011, Title 42, USCA, Title VIII, Sec. 811, 49 Stat. 639, hereinbefore set out, for the reason that it was a corporation whose activities were confined to educational, scientific and civic purposes and solely derived its income from voluntary subscriptions or contributions used to defray its necessary [fol. 7] operating expenses, and no part thereof inuring to the benefit of any private individual or shareholder.

Said applications were on proper form of the office of the Commissioner of Internal Revenue of the Treasury Department, as required, and were in all respects complete, regular and in accordance with the laws and regulations and were accompanied by the necessary evidence and proof of facts. The facts alleged in said applications were not traversed or denied by the Commissioner of Internal Revenue or by any representative of the United States. Although said applications were in all respects complete and in due form, nevertheless the Commissioner of Internal Revenue refused and denied said applications on July 3, 1941 and June 26, 1942, respectively, on the following ground:

"The records of the Bureau indicate that your organization has been granted exemption from Federal income tax under the provisions of Section 101(7) of the Revenue Act of 1936 and the corresponding provisions of prior revenue acts applying to business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual. The provisions of Section 101(7) of the Revenue Act of 1936 and the corresponding provisions of prior revenue acts are similar to the provisions of Section 101(7) of the

Internal Revenue Code. The exempt status so established under income tax laws does not extend to the taxes imposed under Title VIII of the Social Security Act or the Federal Insurance Contributions Act. There is no provision in such acts under which your organization is entitled, by reason of its character or purposes, to exemption from the taxes imposed thereby."

[fol. 8] as shown by the records of the Commissioner of Internal Revenue, and is hereby referred to and prayed to be considered a part hereof.

## X

That this civil action is brought by the Plaintiff in its behalf and in behalf of Claude H. Woodward and other employees of the Plaintiff who have been required to contribute the payment of such tax; that as and if judgment is rendered in its favor, it will return to its employees the amount of tax it has collected from them in order to comply with the demands of the Defendant.

## XI

Your Plaintiff is advised by its counsel, and therefore avers, that the Social Security taxes collected from it are erroneous and illegal, which reasons were urged at the time of the filing of the claims for refund in the Treasury Department, and which reasons are urged here, and are set out in the preceding paragraph.

## XII

No action upon this claim other than herein set forth has been taken before Congress or any other Department of the Government.

## XIII

The plaintiff avers that there is justly due and owing to it on account of matters herein set forth the sum of \$1,326.54, after deducting all just off-sets and demands on part of the United States, and that it is the sole owner of the claim herein sued upon, and no assignment or transfer of the claim or any part hereof or interest in the same has been made.

Wherefore, the plaintiff prays findings of fact and judgment for the sum of \$1,326.54, with interest from the date [fol. 9] of the respective payments of the aforesaid Social Security Taxes as provided by law, and for such other relief to which it may be entitled.

Better Business Bureau of Washington, D. C., Inc.  
By: Edward C. Baltz, President.

Attest: Claude H. Woodward, Secretary. Lyon & Lyon, Attorneys for Plaintiff, 701 Evans Building, Washington, D. C.

*Duly sworn to by Edward C. Baltz. Jurat omitted in printing.*

[fol. 10] IN UNITED STATES DISTRICT COURT

ANSWER—Filed December 14, 1942

Now comes the defendant, the United States of America, by its attorney, Edward M. Curran, United States Attorney in and for the District of Columbia, and for its answer to the complaint filed herein:

1. Admits the allegations contained in paragraph numbered I thereof.
2. Admits the allegations contained in paragraph numbered II thereof.
3. Answering paragraph numbered III of the complaint, the defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies said allegations.
4. Answering paragraph numbered IV of the complaint, the defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies said allegations.
5. Answering paragraph numbered V of the complaint, the defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies said allegations.

6. Denies the allegations contained in paragraph numbered VI of the complaint.

7. Admits the allegations in paragraph numbered VII of the complaint, except that the defendant alleges that for the years 1940 and 1941, respectively, the Federal Social Security Act and amendments thereto referred to in said paragraph imposed upon each the employer and the employees, respectively, a tax of one and one-half per cent of the wages paid to and received by said employees, instead of one per cent of said wages as alleged therein.

[fol. 11] 8. Admits the allegations in paragraph numbered VIII of the complaint, except that the defendant denies that the social security taxes referred to in said paragraph were arbitrarily assessed and collected from plaintiff, as alleged therein. Further answering said paragraph, the defendant alleges that the correct amount of said taxes assessed against and collected from plaintiff for the years 1937 to 1941, inclusive, was in the aggregate sum of \$1,379.02, instead of \$1,326.54, as alleged therein, which amount was paid by plaintiff as social security taxes during said period.

9. Answering paragraph numbered IX of the complaint, the defendant admits that plaintiff filed two claims for refund for the recovery of aforesaid social security taxes in the total sum of \$1,326.54 on the ground that it was exempt from federal taxes, and admits that said claims for refund were disallowed by the Commissioner of Internal Revenue, as alleged therein. Further answering said paragraph, the defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of each and every other allegation of fact contained therein, and therefore denies said allegations.

10. Admits the allegations contained in paragraph numbered X of the complaint, except that the defendant denies that this action is brought in behalf of Claude H. Woodward and other employees of plaintiff, as alleged therein. Further answering said paragraph, the defendant alleges that plaintiff has not complied with Section 402.704 (b) of Treasury Regulations 106, and, therefore, if judgment is rendered in plaintiff's favor herein, the amount thereof is limited to that portion of the aforesaid social security

taxes which plaintiff paid as an employer under Section 804 of Title VIII of the Social Security Act, as amended.

11. Denies each and every allegation contained in paragraph numbered XI thereof.

12. Admits the allegations contained in paragraph numbered XII thereof.

[fol. 12] 13. Denies each and every allegation contained in paragraph numbered XIII thereof.

Wherefore, the defendant demands judgment dismissing the complaint filed and that it be awarded the costs and disbursements of this action.

Edward M. Curran, United States Attorney; Grace B. Stiles, Assistant United States Attorney, Attorneys for Defendant.

IN UNITED STATES DISTRICT COURT

STIPULATION OF FACTS—Filed April 26, 1943

It is hereby stipulated and agreed by and between the parties herein, by their respective attorneys of record, that the following statements of fact shall be taken as true; provided, however, that this stipulation shall be without prejudice to the right of either party to introduce other and further evidence not inconsistent with the facts herein stipulated.

I

Plaintiff, Better Business Bureau of Washington, D. C. Inc., is a corporation duly created and existing under the laws of the District of Columbia, having been incorporated on or about the 10th day of August, 1920, under the Act of March 3, 1901, (31 Stat. c. 854, par. 599). Plaintiff has been continuously since the date of its incorporation actively conducting its operation in the City of Washington, in the District of Columbia.

II

The objects for which plaintiff was formed as stated in its Certificate of Incorporation are as follows:

“ \* \* \* the object for which it is formed is for the mutual [fol. 13] welfare, protection and improvement of business

methods among merchants and other persons engaged in any and all business or professions and occupations of every description whatsoever that deal directly or indirectly with the public at large, and for the educational and scientific advancements of business methods among persons, corporations or associations engaged in business in the District of Columbia so that the public can obtain a proper, clean, honest and fair treatment in its dealings or transactions with such merchants, tradesmen, corporations, associations or persons following a profession and at the same time protecting the interest of the latter classes of businesses to enable such as are engaged in the same to successfully and profitably conduct their business and for the further purposes of endeavoring to obtain the proper, just, fair and effective enforcement of the Act of Congress approved May 29th, 1916, otherwise known as "An Act to prevent fraudulent advertising in the District of Columbia."

A copy of Plaintiff's Revised By Laws adopted by its Board of Trustees on December 8, 1938, are hereto attached and made a part hereof as Exhibit "A".

### III.

Plaintiff was not organized for profit and has no shares of stock; nor does any part of its earnings inure to the benefit of any private shareholder or individual; it pays no dividends, and makes no refunds or disbursements to any person interested. Information that it has compiled is available to any one, and it makes no charge for any information furnished. There is no discrimination between members or non-members. Anyone who takes the trouble to inquire may have all the information that the Bureau has available or can obtain.

The money to carry on the work of the Bureau is raised by voluntary subscription or membership fees from interested business people; there is no fixed membership fee. [fol. 14] One individual or company may contribute \$25.00, while another may contribute \$100.00 or more. Its budget for the years of 1936 to 1941 inclusive differed in various amounts for its complete operation under its charter. The entire sum of the aforesaid budget was raised by contributions and none of it was defrayed by fees or charges made in connection with the service that it rendered to the vari-

ous individuals, companies or people who took advantage of the slogan "Before you invest, investigate."

Its Board of Trustees are elected annually from the membership. (See pamphlet attached hereto and made a part hereof as Exhibit B.) Its officers are elected by the Board of Trustees. They have nominal duties and are paid no salary. The only paid employees are the Managing Director and a limited number of employees serving under him. In carrying out its charter purposes, plaintiff's work is divided roughly into five subdivisions. They are—(1) Fraud Prevention (2) the fighting of Fraud, (3) the elevation of business standards, (4) informing and advising the consumer as a buyer, and (5) furnishing information and aid to various agencies of the Governments of the District of Columbia and the United States.

1. In the Fraud Prevention work, the purpose is to inform and warn its members and members of the general public of plans and schemes of various types of swindlers. Most of this service consists of answering specific inquiries. The Bureau furnishes the public with what information it has and when the facts are made available to the prospective victim the swindle usually appears rather obvious to even an illiterate person. A substantial part of the fraud prevention work has been in cooperation with newspapers and radio networks which, when the Bureau shows them that the prospective advertiser is a swindler, results many times in the refusal of the advertisement or offering, thus limiting materially the opportunity of the swindler to contact his prospective victim.

[fol. 15] (2) In Fraud fighting, general and abstract fraudulent practices are brought to the attention of the public. The true facts are carried in newspaper stories, radio talks, bulletins and posters so that the public may be thoroughly informed and protected. These are addressed to the public in general and are not in any way limited to the members. In many instances schemes are killed and do not have a chance to occur because the public was informed of these schemes.

(3) In the elevation of business standards, the purpose is to show and convince merchants that applying the doctrine of caveat emptor is not good business. In showing and convincing merchants that misleading advertising,

extravagant claims and price comparisons are not good business, the Bureau, not representing any particular merchants and having no axe of its own to grind, is in a peculiarly advantageous position in talking with the merchants. The elevation of business standards and ethics is obtained by meetings attended by official representatives of chain stores, independents, and every type of merchant where the follies of dishonest or at least unethical merchandising are pointed out and where a constructive, voluntary, plan of honest advertising is advocated, and which frequently results in the merchants adopting a program and the elimination of comparative prices, all in the interest of public confidence. In some instances special meetings of this character are held of particular business groups.

(4) The Bureau deals with the public in its fourth class of work. The Bureau believes that the public as a consumer has as much interest in our economic scheme as business men have, and that the public and the business man should work together for a better understanding of each other's problems. This is accomplished through talks by the Managing Director, Assistant Manager and other representatives of the Bureau to groups of individuals, and it is also carried on through the Bureau's bulletins and by [fol. 16] newspaper stories and radio addresses. The consuming public must be protected from fraudulent practices by making inquiries from some reliable source before its money is spent or before it becomes involved in any unknown or doubtful proposition. If the consuming public spends its money unwisely, it is a loss not only to the consumer, but to everyone else.

(5) The Bureau also cooperates with the various governmental agencies interested in law enforcement, as follows: United States Federal Trade Commission, United States Post Office Department of Justice, and certain War Emergency Agencies, etc., Health Department, License Bureau, Insurance Department, etc. of the District of Columbia.

The Bureau furnishes needful valuable and required proof to interested governmental agencies of schemes which they desire to know about in order to take immediate action to protect the public. The Bureau has nothing whatever to do with the enforcement of the law; that is the duty of the above mentioned various government agencies.

There are some eighty-five other Better Business Bureaus in the United States. The purposes of these Bureaus are substantially similar and each Bureau exchanges information with other Bureaus, but each is independently operated by local citizens and all the expenses are likewise defrayed by local citizens.

Plaintiff has never indulged in any political activities nor does it have anything whatsoever to do with same:

#### IV

Plaintiff was granted exemption from federal income taxes under the provisions of Section 101(7) of the Internal Revenue Code and the corresponding provisions of the Revenue Act of 1938 and prior Revenue Acts, applying to business leagues, chambers of commerce, real estate boards or boards of trade not organized for profit, and no part of the net earnings of which inure to the benefit of private shareholder or individual.

[fol. 17]

#### V

For the taxable period beginning January 1, 1937 and up to and including the taxable period ending December 31, 1941, plaintiff filed with the Commissioner of Internal Revenue, Treasury Department Forms SS-1 and SS-2 under Title VIII of the Social Security Act and the Federal Insurance Contribution Act. The Social Security tax reported on each of these returns was assessed against and paid by plaintiff to the Collector of Internal Revenue for the District of Maryland for each of the calendar years 1937 to 1941 in the following amounts:

1937.....	\$268.53
1938.....	277.67
1939.....	274.08
1940.....	265.56
1941.....	292.98
Total.....	\$1,378.82

#### VI

On or about January 21, 1941 and February 7, 1942, plaintiff duly and timely filed with the Collector of Internal Revenue two claims for refund of the aforesaid social security taxes in the sum of \$1,033.56 and \$292.98, respectively, claiming refund thereof on the ground that plaintiff was

"organized wholly for educational, scientific and civic purposes"; no part of the income of which inured to the benefit of any private individual; and that under the provisions of Section 1426(b)(8) of the Internal Revenue Code, it was exempt from the payment of federal social security taxes. Copies of said claims for refund are hereto attached and made a part hereof as Exhibits "C" and "D", respectively.

## VII

The Commissioner of Internal Revenue officially disallowed the aforesaid claims for refund on July 3, 1941 [fol. 18] and June 26, 1942, on which respective dates notices of disallowance thereof were sent to plaintiff by registered mail in accordance with Section 3773(a)(2) of the Internal Revenue Code. Copies of said letters are hereto attached and made a part hereof as Exhibits "E" and "F", respectively.

## VIII

The only issue involved in this action is whether or not plaintiff is exempt from taxation under the provisions of Section 1426(b)(8) of the Internal Revenue Code and the corresponding provisions of the Social Security Act and Federal Insurance Contribution Act.

Lyon & Lyon, Counsel for Plaintiff. Grace B. Stiles,  
Ass't. United States Attorney, Counsel for Defendant.

April, 1943.

## EXHIBIT "A"

### REVISED BY LAWS OF THE BETTER BUSINESS BUREAU OF THE DISTRICT OF WASHINGTON, D. C. INC.

Unanimously adopted by the Board of Trustees at a duly and regular meeting called for that purpose on December 6, 1938.

#### Article I

##### Object—Powers—Membership

Section 1. There shall be no Capital Stock.

Section 2. The Better Business Bureau of the District of Columbia has been incorporated or organized for the mutual welfare, protection and improvement of business

methods among merchants, individuals or corporations and other persons or associations or organizations engaged in any and all business or professions and occupations of [fol. 19] every description whatsoever that deal directly or indirectly with the public at large, and for the educational and scientific advancement of business methods among persons, corporations or associations engaged in business in the District of Columbia, so that the public can obtain a proper, clean, honest and fair treatment in its dealings or transactions with such merchants, tradesmen, corporations, associations or persons following a profession, and at the same time protecting the interest and welfare of the latter classes of businesses to enable such as are engaged in the same to successfully and profitably conduct their business, and for the further purpose of endeavoring to obtain the proper, just, fair and effective enforcement of the Act of Congress, approved May 29th, 1916, otherwise known as "An Act to prevent fraudulent advertising in the District of Columbia," and this corporation or organization shall be maintained solely by voluntary subscriptions or monies paid in to the Bureau by any person, firm, corporation, or association interested in better business ethics and methods and such person, firm, corporation or association making payment of subscriptions thereto shall be eligible to membership. Membership to be held through yearly subscriptions, payable annually, semianually or quarterly, in advance.

Section 3. The voluntary subscriptions, which may be otherwise known as dues, of the Better Business Bureau of the District of Columbia, shall be made in such amount or amounts as may be determined by the Board of Trustees.

Section 4. That the Board of Trustees shall elect members to this corporation or organization and may prescribe such rules and regulations from time to time as it may deem fit and proper for this purpose.

Section 5. Immediately upon the adjournment of the annual meeting of the subscribers the newly elected Board of Trustees shall convene for the purpose of organizing such new board and the election of the proper officers required by the Charter of this corporation or organization.

[fol. 20]

**Article II****Meetings**

Section 1. The annual meeting of the members shall be held on the third Tuesday of June in each year and may be recessed or adjourned from time to time at the pleasure of the members present at the same.

Section 2. At such meeting of the members or subscribers, the only business to be transacted is the submission and consideration of the annual report from the Chairman of the Board, report of the Treasurer, reports of other officers as may be required by the Board; election of the Board of Trustees for the ensuing year and/or until the election of their successors, and such other business as the Board or Chairman may desire to bring to the attention and consideration of the members.

**Article III****Board of Trustees**

Section 1. The Board of Trustees shall be constituted as provided in the Charter of this corporation, that is, the number of such Board shall not be less than fifteen (15) nor more than forty (40). That in the event the members of this corporation or organization shall fail to provide or elect the total number of Trustees permitted by its Charter, such Board of Trustees shall have the power to nominate and elect the balance of the number of Trustees required or permitted by its Charter at any monthly meeting of said Board so as to enable such Board to have a full membership of forty (40) Trustees if it is so desired by said Board. The Board shall create and define the policy of this corporation or organization and shall have jurisdiction over all matters not otherwise provided for and may have one regular meeting of the Board of Trustees in each month of the year. Special meetings of the Board may be called by the President or Chairman of the Board of Trustees at his discretion or any five (5) members [fol. 21] thereof may call such meetings on two days' written notice.

Section 2. A Quorum of the Board of Trustees shall consist of twelve (12) members of the same.

## Article IV

### Officers

Section 1. The officers of this corporation or organization shall be:

President (who may be otherwise known as the Chairman) of the Board of Trustees

Vice President (who may be otherwise known as Vice-Chairman)

Treasurer

Assistant Treasurer

Secretary

Counsel

The above mentioned officers shall be elected by the Board of Trustees and their respective terms of office shall be for one year and/or until the election of their successors.

Section 2. The Secretary of this corporation or organization shall be the Managing Director of the same and he shall be appointed by the Board of Trustees and his salary shall be fixed by said Board in such annual amount (as a basis of computation) and for such a period as this Board in its discretion may deem fit and proper, such salary to be payable in bi-monthly installments.

Section 3. The President, Vice-President or Treasurer of the Advertising Club of Washington shall automatically become a member of the Board of Trustees in the order in which they are named, so that the Advertising Club of Washington aforesaid shall always be represented on this Board by one of its officers.

[fol. 22]

## Article V

### Committees

Section 1. The regular standing committees shall be: Executive, Membership, Subscriptions or Dues, Finance, Budget and Audit, Publicity, and Merchandise or Retail Practices.

Section 2. Each Committee shall consist of a chairman and of as many members as authorized by the Board of Trustees and they may be appointed by the Chairman of the Board.

## Article VI

### Duties of Officers

Section 1. The duties of the Chairman shall be to preside over all meetings of subscribers or members of this corporation or organization, and all meetings of the Board of Trustees; and he shall have the general management, control and supervision of the business affairs of this corporation or organization, and if he so desires he may obtain the advice and approval of the Executive Committee with respect to his decision and action which shall be the function of this latter Committee. In his absence the Vice-Chairman shall perform the duties required of the office of the Chairman.

Section 2. The Treasurer shall deposit the monies or securities belonging to this corporation in any well-known or substantial financial institution in the District of Columbia, or such other depository or depositories that may be designated by the Board of Trustees; there shall be appointed by the Board of Trustees an Assistant Treasurer, who shall perform the duties of the Treasurer in the absence of the latter or in the event a vacancy occurs in that office, and the Board of Trustees shall keep all books of account, relating to the financial or fiscal business affairs of this corporation or organization; he shall make a report of the financial affairs of this corporation or organization [fol. 23] to the President of the Board of Trustees whenever requested, and shall make a report of the financial affairs of this corporation or organization at the annual meeting of its subscribers; he shall give such bond as may be required by the Board of Trustees. All checks or other orders for the payment of money or delivery of securities or properties belonging to this corporation or organization shall be signed by the President or Treasurer (and in the absence of the latter, by the Assistant Treasurer) and by other member or members of the Board of Trustees selected or named by it with the Secretary (or Managing Director) or Assistant Director, and issued upon an order signed by the Chairman or Secretary (or Managing Director).

Section 3. The Secretary (or Managing Director) shall keep a record of all meetings of the subscribers and the Board of Trustees in books provided for that purpose. He

shall keep such other books and records and perform such other duties as may be assigned to him.

Section 4. That the Board of Trustees may appoint an Assistant Secretary (or Assistant Managing Director) who shall perform the duties required of the office of the Secretary (or Managing Director) in the absence of such Secretary or Managing Director.

Section 5. The duties of the Secretary (or Managing Director) of this corporation or organization, shall be the general management of the conduct of the same, (under the supervision of the President) and shall conduct all investigations and take such action as in his judgment he deems best, fit and proper, for the general conduct of this corporation or organization as to the final disposition to be made of cases investigated by him. He shall have a wide scope of authority until such time as the Board of Trustees or the Executive Committee meets, when a report shall be made to either and/or both parties for its approval or disapproval of the activities and determinations made by him during the interim.

[fol. 24]

## Article VII

### Certificate of Membership

Section 1. The membership of this corporation or organization shall be evidenced by a letter or certificate which shall bear the signature of the Chairman or Secretary with the impression of the official seal of the corporation thereon, it being understood that such membership or evidence thereof shall not be used for advertising purposes.

## Article VIII

### Amendments, etc.

Section 1. These By-Laws may be amended by a majority vote of the Board of Trustees at any regular or special meeting, provided a notice in writing of the intention to amend such By-Laws shall have been communicated to each member of the Board.

Section 2. Anything this corporation may do under its charter and laws of the District of Columbia, and not herein provided for, shall be within the jurisdiction of the Board

of Trustees, which has the authority to perform any legal act for the conduct, advancement and the welfare of this corporation or organization.

### EXHIBIT "B"

#### The Better Business Bureau of Washington, D. C., Inc.

What it is and  
What it does  
to serve the  
Community

#### "Before You Invest—Investigate"

##### [fol. 25] 1. What is the Better Business Bureau?

It is a non-profit organization established in August, 1920, by leading retail, wholesale, financial and industrial organizations in this community for the following purposes:

- (a) Fraud prevention.
- (b) Fraud prosecution.
- (c) Promotion of fair advertising and selling practices.
- (d) Consumer education in money management, in buying and in everyday relations with business.

##### 2. How is the Better Business Bureau financed?

Solely through membership support of business firms whose fees vary with the size of the business and the extent of services rendered.

##### 3. Who may become a member of the Bureau?

Any person, firm, or organization believing in and subscribing to better business ethics is eligible for application to membership, subject to approval of the Board of Trustees.

##### 4. Is the Better Business Bureau a local organization?

Yes, but it is a member of the National Association of Better Business Bureaus cooperating with similar Bureaus in over 70 cities, exchanging information and reports.

##### 5. Who directs the local Bureau?

A board of trustees determines the general policies. These men serve without compensation and represent the many fields in which the Bureau is active.

**6. How is the Bureau operated?**

Through an experienced staff, including a director, assistant director, division managers, trained shoppers and office personnel.

[fol. 26] **7. How does the Bureau serve the public?**

- (a) Providing factual information to inquirers.
- (b) Handling complaints by the public against business.
- (c) Education in fraud prevention.
- (d) Promoting a better understanding between business and the public.
- (e) Aiding in the prevention of swindles and the prosecution of swindlers.
- (f) Promotion and development of fair trade practices in advertising and selling.

**8. How does the Bureau reach the Public?**

- (a) By Radio talks exposing prevalent rackets.
- (b) Advertisements appearing in the Newspapers and the Shopping News.
- (c) Through the distribution of Fact Booklets designed for consumer education.
- (d) By talks made before business, social, and educational groups.
- (e) By publicity released to the press on particular promotions and unfair schemes.

**9. Is the Bureau interested only in prosecution of those cases which are in violation of law?**

No, the Bureau believes in business protecting itself and the public by self-regulation. It works for cooperation first; but when that cooperation cannot be had the Bureau refers the matter to the proper government agency, submitting all evidence for its consideration.

**10. How much money is annually wasted through fake investments or fraudulent merchandise schemes?**

According to the New York Crime Commission our annual fraud tax is \$55.00 for every adult in the United States.

**11. Does this affect your business?**

Yes, waste in purchasing power is a definite loss to legitimate business whose success is dependent upon the income [fol. 27] of the community to purchase goods and investments of dependable quality.

12. What services are rendered by the Merchandise Division?

- (a) Meets with trade groups to establish standards for better advertising and selling.
- (b) Eliminates unfair advertising, which tends to destroy consumer confidence in all advertising.
- (c) Checks local advertising and radio continuity for accuracy and seeks the cooperation of the advertiser when inaccuracies are discovered.
- (d) Acceptance and adjustment of consumer complaints, bringing about a better understanding between business and consumer.
- (e) Keeps merchants informed of new legislation applicable to business and assists in putting these regulations into practice.

13. What services are rendered by the Financial Division?

- (a) Development and dissemination of factual information in connection with Bureau's well-known policy of "Before You Invest—Investigate."
- (b) Cooperates with Government agencies to check fraudulent promotions and assists in the prosecution of offenders, when necessary.

14. What other services are rendered by the Bureau to the public and business?

- (a) Charity rackets, solicitation schemes and other promotions are exposed.
- (b) Classified advertising rackets such as "stuffed flats," employment agency racketeers and movie careers are called to the attention of newspapers and their cooperation requested.

15. What services are available to members of the Bureau?

[fol. 28] (a) Bulletin at regular intervals giving valuable information on current activities.

(b) Upon request special reports on individuals or firms operating in this community, or outside Washington.

16. Why should business support the Bureau financially?

- (a) Because it is protecting the buying public against misrepresentation, deception and fraud.
- (b) Because it is building for legitimate business a greater good will by lifting suspicion from the honest and exposing the dishonest.

(c) Because from purely a civic point of view it is a small price to pay for preserving the security and good will to which all legitimate business is entitled, and which if endangered is damaging to you as well as the firm directly affected.

(d) And because, in many instances, services rendered by the Bureau will pay for the membership fee many times over.

Officers and Board of Trustees of  
The Better Business Bureau, Inc.

Edward C. Baltz, Chairman  
*Perpetual Building Association*

James W. Hardey, Vice-Chairman  
*Woodward & Lothrop*

Hulbert T. Bisselle, Treasurer  
*Riggs National Bank*

R. B. H. Lyon, Counsel  
*Lyon & Lyon*

Arthur J. Sundlum, Assistant Treasurer  
*A. Kahn, Inc.*

C. G. Sheffield, Chairman, Merchandise Committee  
*Julius Garfinkel & Company*

C. A. Aspinwall  
*Security Storage Company*

[fol. 29] Earl D. Baker  
*Washington Daily News*

S. Meyer Barnett  
*Hub Furniture Company*

Kenneth H. Berkeley  
*Radio Station WMAL*

Donald M. Bernard  
*Washington Post*

Y. E. Booker  
*Y. E. Booker & Company*

Everett J. Boothby  
*Washington Gas Light Company*

B. B. Burgunder  
*S. Kann Sons Company*

George B. Burrus  
*Peoples Drug Stores, Inc.*

Lee D. Butler  
*Lee D. Butler, Inc.*

John H. Davis  
*Judd & Detweiler, Inc.*

Charles B. Duncan, Sr.  
*The Hecht Company*

Joshua Evans, Jr.  
*Hamilton National Bank*

Dr. Clyde M. Gearhart  
*National Laundry*

Ralph L. Goldsmith  
*Lansburgh's*

Miss Margaret Gollan  
*Frank R. Jelleff, Inc.*

Gerald D. Grosner  
*Grosner of 1325 F St.*

[fol. 30] J. J. Hasley  
*The Palais Royal*

J. Wriley Jacobs  
*B. F. Saul Company*

Louis D. Krakow  
*Pres., Advertising Club of Washington, D. C.*

C. J. Mack  
*Mayflower Hotel*

Archibald McLachlen  
*McLachlen Banking Corporation*

E. D. Merrill  
*Capital Transit Company*

Thornton W. Owen  
*Thomas J. Owen & Son*

William N. Payne, Jr.  
*Eastern Building & Loan Association*

John A. Reilly  
*Second National Bank*

Herbert J. Rich  
*B. Rich's Sons*

Charles A. Robinson  
*Chesapeake & Potomac Telephone Co.*

H. L. Rust, Jr.  
*H. L. Rust Company*

Charles H. St. John  
*Griffith-Consumers Company*

C. Melvin Sharpe  
*Potomac Electric Power Company*

Frederick P. H. Siddons  
*American Security & Trust Company*

[fol. 31] Harry E. Ullman  
*The Goldenberg Company*

Dewey Zirkin  
*H. Zirkin & Sons*

Claude H. Woodward, Director

Better Business Bureau of Washington, D. C.  
534 Evening Star Building  
Phone NA 8164

## EXHIBIT "C"

*Claim*

To be filed with the Collector where assessment was made or tax paid

Received Mar. 24, 1941, Control Div.

Received Mar. 21, 1941, Accounts and Collections.

**417548**

Collector's Stamp

Collector of Internal Revenue

Correspondence Section

Employees Tax Service

Received

Jan. 23, 1941

Received

Mail Room

Baltimore, Md.

Collector of Internal Revenue

District of Maryland

Jan. 23, 1941

The Collector will indicate in the block below the kind of claim filed, and fill in the certificate on the reverse side.

[fol. 32]  Refund of Tax Illegally Collected.

Refund of Amount Paid for Stamps Unused, or Used in Error or Excess.

Abatement of Tax Assessed (not applicable to estate or income taxes).

District of Columbia, City of Washington, ss.:

Name of taxpayer: Better Business Bureau of Washington, D. C., Inc.

Business address: 534 Evening Star Building, 11th & Penna. Ave., N. W.

Residence: Washington, D. C.

The deponent, being duly sworn according to law, deposes and says that this statement is made on behalf of the taxpayer named, and that the facts given below are true and complete:

1. District in which return (if any) was filed: Maryland.

2. Period (if for income tax, make separate form for each taxable year) from January 1, 1937, to December 31, 1940.

3. Character of assessment or tax: Imposed under Federal Insurance Contributions Act (formerly Title VIII, Social Security Act). See attached schedules.

4. Amount of assessment, \$1033.56.

5. Date stamps were purchased from the Government —

6. Amount to be refunded with interest, \$1033.56.

7. Amount to be abated (not applicable to income or estate taxes) — \$ —.

8. The time within which this claim may be legally filed expires under Section 402.704, Reg. 106 and prior refunding provisions on January 31, 1941.

The deponent verily believes that this claim should be allowed for the following reasons:

This claim for refund is made on the ground that the claimant is a corporation organized wholly for educational, scientific and civic purposes; that its income, which is solely derived from subscriptions and voluntary contributions, is [fol. 33] used to defray its necessary operating expenses and no part thereof inures to the benefit of any private individual; and that, under the provisions of the controlling Revenue Act and the Regulations of the Commissioner it was properly exempt from the payment of the taxes in question and therefore the same should be refunded. (See: Better Business Bureau of Oklahoma City, Inc. v. Jones, 34 F. Supp. 573).

(Attach letter—also sheets if space is not sufficient)

(Signed) Better Business Bureau of Washington,  
D. C., Inc., by Claude H. Woodward, Director.

Sworn to and subscribed before me this 22 day of  
January, 1941. T. W. Raymond, Notary Public.

[fol. 34]

## Certificate

I certify that an examination of the records of this office shows the following facts as to the assessment and payment of the tax:

Claim No. 417548

Form SS-1a  
Character of  
assessment  
and period  
covered  
FICA

			Account No. or Page	Amount assessed	Paid, Abated, or Credited Date	Pd. Ab. Cr.
List	Year	Month	Line			
Jan.—1937	FICA	1937	Feb 007298	\$23.94	2-5-37	\$23.94
Feb.—1937	FICA	1937	Mar 017796	23.74	3-15-37	23.74
Mar.—1937	FICA	1937	July 011487	23.98	4-30-37	23.98
Apr.—1937	FICA	1937	Sept 011288	25.44	6-1-37	25.44
May—1937	FICA	1937	July 010139	25.41	6-30-37	25.41
Jun.—1937	FICA	1937	Oct 005129	25.38	7-21-37	25.38
Jul.—1937	FICA	1937	Aug 022416	26.38	8-5-37	26.38
Aug.—1937	FICA	1937	Sep 018056	25.53	9-2-37	25.53
Sep.—1937	FICA	1937	Oct 025603	17.54	10-14-37	17.54
Oct.—1937	FICA	1937	Nov 20343	17.05	11-12-37	17.05
Nov.—1937	FICA	1937	Dec. 22783	17.10	12-14-37	17.10
Dec.—1937	FICA	1938	Jah 25700	17.04	1-13-38	17.04

W. H. MAGRUDER,  
Collector of Internal Revenue. (District)  
WHM

5263

KBM

Amount claimed \$1033.56  
Amount allowed \$  
Amount rejected \$1033.56

Claim examined by HG 6-20-41

Claim approved by GEL, Chief of Division.

## Instructions

1. The claim must set forth in detail and under oath each ground upon which it is made, and facts sufficient to apprise the Commissioner of the exact basis thereof.
2. The claim should be sworn to by the taxpayer, if possible. Whenever it is necessary to have the claim executed by an attorney or agent, on behalf of the taxpayer, an authenticated copy of the document specifically authorizing such agent or attorney to sign the claim on behalf of the taxpayer shall accompany the claim. The oath will be administered without charge by any collector, deputy collector, or internal revenue agent.
3. If a return is filed by an individual and a refund claim is thereafter filed by a legal representative of the deceased, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed.

to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made on the claim showing that the return was filed by the fiduciary and that the latter is still acting.

**4. Where the taxpayer is a corporation, the claim shall be signed with the corporate name, followed by the signature and title of the officer having authority to sign for the corporation.**

[fol. 35]

Character of assessment and period covered		Account No. or	Amount assessed	Paid, Abated, or Credited	Pd. Ab. Cr.
List	Year Month	Page Line	Date	Amount	
1st Q 1938	FICA 1938	Apri 4-10463	75.92	4-13-38	75.92
2nd Q 1938	FICA 1938	July 7-5538	75.59	7-5-38	75.59
3rd Q 1938	FICA 1938	Oct 10-16672	61.74	10-26-38	61.74
4th Q 1938	FICA 1939	Jan 1-106678	64.62	1-17-39	64.62
					277.67
1st Q 1939	FICA 1939	May 5-111212	77.94	5-1-39	77.94
2nd Q 1939	FICA 1939	July 7-100191	77.54	7-1-39	77.54
3rd Q 1939	FICA 1939	Nov. 11-107291	81.26	10-31-39	81.26
4th Q 1939	FICA 1940	Feb 2-160703	29.84		
		P	1.49		
		I	01	2-2-40	37.34
					Pd.
1st Q 1940	FICA 1940	Apri 4-109155	79.12	4-18-40	79.12
2nd Q 1940	FICA 1940	July 7-160097	71.84	6-29-40	71.84
3rd Q 1940	FICA 1940	Oct 10-111083	66.58	10-31-40	66.58
4th Q 1940	FICA 1941	Feb. 2-161119	48.02	1-15-41	48.02
Excess of \$6.00 on 4th Q 1939 used on 2nd Q 1940 return			\$1,080.04		\$1,080.04

## EXHIBIT D

### Claim

To be filed with the Collector where assessment was made or tax paid.

Received Jun. 4, 1942, Control Div.

Received Mar. 21, 1941, Accounts and Collections.

[fol. 36]

436487

Collector's Stamp  
Collector of Internal Revenue  
District of Maryland  
Correspondence Section  
Employment Tax Division

Received  
Feb. 9, 1942

Received  
Mail Room  
Baltimore, Md.  
Collector of Internal Revenue  
District of Maryland  
Jan. 23, 1941

*Claim*

To be filed with the Collector where assessment was made or tax paid.

The Collector will indicate in the block below the kind of claim filed, and fill in the certificate on the reverse side.

- Refund of Tax Illegally Collected.  
 Refund of Amount Paid for Stamps Unused, or Used in Error or Excess.  
 Abatement of Tax Assessed (not applicable to estate or income taxes).

District of Columbia, City of Washington, ss.:

Name of taxpayer: Better Business Bureau of Washington, D. C., Inc.

Business address: 534 Evening Star Newspaper Building, 11th & Penna. Ave., N. W.

Washington, D. C. Identification No. 53-0034880.

The deponent, being duly sworn, according to law, deposes and says that this statement is made on behalf of the [fol. 37] taxpayer named, and that the facts given below are true and complete:

1. District in which return (if any) was filed: Maryland.
2. Period (if for income tax, make separate form for each taxable year) from January 1, 1941 to December 31, 1941.

3. Character of assessment or tax imposed under Federal Insurance Contributions Act (formerly Title VIII, Social Security Act).

4. Amount of assessment, \$292.98; dates of payment see attached schedules.

5. Date stamps were purchased from the Government—

6. Amount to be refunded with interest ..... \$292.98.

7. Amount to be abated (not applicable to income or estate taxes) ..... \$—

8. The time within which this claim may be legally filed expires, under Section 402.704, Reg. 106 and prior refunding provisions on January 31, 1943.

The deponent verily believes that this claim should be allowed for the following reasons:

This claim for refund is made on the ground that the claimant is a corporation organized wholly for educational, scientific and civic purposes; that its income, which is solely derived from subscriptions and voluntary contributions, is used to defray its necessary operating expenses and no part thereof inures to the benefit of any private individual; and that, under the provisions of the controlling Revenue Act and the Regulations of the Commission it was properly exempt from the payment of the taxes in question and therefore the same should be refunded. (See: Better Business Bureau of Oklahoma City, Inc. v. Jones, 34 F. Supp. 573, which decision has been affirmed by the U. S. Circuit Court [fol. 38] of Appeals for the 10th Circuit, Case 2277, September Term 1941, decided October 31, 1941).

(Attach letter also sheets if space is not sufficient)

(Signed) Better Business Bureau of Washington,  
D. C. Inc., by Claude H. Woodward, Director.

Sworn to and subscribed before me this 5 day of  
February, 1942. T. W. Raymond, Notary Public.

[fol. 39]

Certificate 7276

I certify that an examination of the records of this office shows the following facts as to the assessment and payment of the tax:

Claim No. 436487

Forms SS-1a  
Character of  
assessment  
and period  
covered  
FICA

			Account No. or Page Line	Amount assessed	Paid, Abated, or Credited Date	Pd. Ab. Cr.	
List	Year	Month					
1st Q 1941	FICA	Apr.	1941	107685	\$79.06	4-18-41	\$79.06
2nd Q 1941	FICA	Jul.	1941	161990	97.18	7-2-41	97.18
3rd Q 1941	FICA	Oct.	1941	107213	76.52	10-17-41	76.52
4th Q 1941	FICA	Dec.	1941	100826	40.22	12-31-41	40.22
Total				3292.98	Total	3292.98	

R. M. DIEMERS, Maryland  
Deputy Collector of Internal Revenue. (District)  
WHM RW

Claim examined by HG  
Claim approved by GEL, Chief of Division.

## Instructions

- The claim must set forth in detail and under oath each ground upon which it is made, and facts sufficient to apprise the Commissioner of the exact basis thereof.
- The claim should be sworn to by the taxpayer, if possible. Whenever it is necessary to have the claim executed by an attorney or agent, on behalf of the taxpayer, an authenticated copy of the document specifically authorizing such agent or attorney to sign the claim on behalf of the taxpayer shall accompany the claim. The oath will be administered without charge by any collector, deputy collector, or internal revenue agent.

- If a return is filed by an individual and a refund claim is thereafter filed by a legal representative of the deceased, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accom-

pany the claim, provided a statement is made on the claim showing that the return was filed by the fiduciary and that the latter is still acting.

4. Where the taxpayer is a corporation, the claim shall be signed with the corporate name, followed by the signature and title of the officer having authority to sign for the corporation.

[fol. 40]

EXHIBIT "E"

A&C:A:AA:5

CL-417548

HG

Better Business Bureau of Washington, D. C., Inc.,  
534 Evening Star Building,  
11th Street and Pennsylvania Avenue, Northwest,  
Washington, D. C.

Sirs:

Reference is made to your claim on Form 843 for refund of \$1,033.56, representing taxes under Title VIII of the Social Security Act and the Federal Insurance Contributions Act for the taxable periods from January 1, 1937 through December 31, 1940.

The claim is based on the contention that the corporation is organized wholly for educational, scientific and civic purposes, and that no part of its income inures to the benefit of any private individual.

The records of the Bureau indicate that your organization has been granted exemption from Federal Income tax under the provisions of Section 101 (7) of the Revenue Act of 1936 and the corresponding provisions of prior revenue acts applying to business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual. The provisions of Section 101 (7) of the Revenue Act of 1936 and the corresponding provisions of prior revenue acts are similar to the provisions of Section 101 (7) of the Internal Revenue Code. The exempt status so established under income tax laws does not extend to the taxes imposed under Title VIII of the Social Security Act or the Federal Insurance Contributions Act. There is no provision in such acts

under which your organization is entitled, by reason of its character or purposes, to exemption from the taxes imposed thereby.

In view of the foregoing, your claim is hereby disallowed.

[fol. 41] 26a A&C:A:AA:5

Cl-417548

HG

Better Business Bureau of Washington, D. C., Inc.

This notice of disallowance is sent by registered mail in accordance with the provisions of Section 3772 (a)(2) of the Internal Revenue Code.

It is to be noted, however, that effective January 1, 1940, Section 1426 (b)(10)(A)(i) of the Federal Insurance Contributions Act, in force on and after January 1, 1940, excepts from "employment" services performed in any calendar quarter in the employ of an organization exempt from Federal income tax under Section 101 of the Internal Revenue Code, if the remuneration for such services does not exceed \$45.00. Since your organization is exempt from Federal income tax under Section 101 (7) of the Code, services performed on and after January 1, 1940, by an employee in a calendar quarter in the employ of your organization are excepted from "employment" if the remuneration for the services does not exceed \$45.00.

Respectfully, Guy T. Helvering, Commissioner. By  
Deputy Commissioner.

HG:ML

HG 6/20 GEL 7/1 GS 7-2

[fol. 42]

EXHIBIT "F"

A&C:A:AA:5-HG

Cl-436487

Better Business Bureau of Washington, D. C., Inc.  
534 Evening Star Newspaper Building,  
11th Street and Pennsylvania Avenue, Northwest,  
Washington, D. C.

Sirs:

Reference is made to your claim on Form 843 for refund of \$292.98 representing taxes under the Federal Insurance

Contributions Act for the taxable periods from January 1, 1941 through December 31, 1941.

The claim is based on the following statements:

"This claim for refund is made on the ground that the claimant is a corporation organized wholly for educational, scientific and civil purposes; that its income, which is solely derived from subscriptions and voluntary contributions, is used to defray its necessary operating expenses and no part thereof inures to the benefit of any private individual; and that, under the provisions of the controlling Revenue Act and the Regulations of the Commissioner it was properly exempt from the payment of the taxes in question and therefore the same should be refunded. (See: *Better Business Bureau of Oklahoma City, Inc. v. Jones*, 34 Supp. 573, which decision has been affirmed by the U. S. Circuit Court of Appeals for the 10th Circuit, Case 2277, September Term 1941, decided October 31, 1941.)"

The records of the Bureau indicate that your organization has been granted exemption under Federal income tax law in view of the specific provisions of Section 101 (7) of the Revenue Act of 1936 and the corresponding provisions of prior revenue acts, applying to business leagues, chambers of commerce, real-estate boards, or boards of trade not organized for profit, and no part of the net earnings of which [fol. 43] inures to the benefit of any private shareholder or individual. The provisions of Section 101 (7) of the Revenue Act of 1936 and the corresponding provisions of prior revenue acts are similar to the provisions of Section 101 (7) of the Internal Revenue Code. The exempt status so established under income tax law does not extend to the taxes imposed by the Federal Insurance Contributions Act. There is no provision in such Act under which your organization is entitled, by reason of its character or purposes, to exemption from the taxes imposed thereby. The Bureau does not consider the court decision in the case of *Better Business Bureau of Oklahoma City, Inc. v. Jones*, Collector, as controlling in the present case. Therefore, services performed by the employees of your organization are not excepted from "employment" for Federal employment tax purposes except to the extent hereinafter stated. Your claim is hereby disallowed.

This notice of disallowance is sent by registered mail in accordance with the provisions of Section 3772 (a) (2) of the Internal Revenue Code.

It is to be noted, however, that effective January 1, 1940, Section 1426 (b)(10)(A)(i) of the Federal Insurance Contributions Act excepts from "employment" services performed in any calendar quarter in the employ of an organization exempt from Federal income tax under Section 101 of the Internal Revenue Code, if the remuneration for such services does not exceed \$45.00. Since your organization is exempt from Federal income tax under Section 101(7) of the Code, services performed on and after January 1, 1940, by an employee in a calendar quarter in the employ of your organization are excepted from "employment" if the remuneration for services does not exceed \$45.00.

Respectfully, Guy T. Helvering, Commissioner. By  
Deputy Commissioner.

HG.MBK

[fol. 44] IN UNITED STATES DISTRICT COURT

MOTION FOR SUMMARY JUDGMENT ON AGREED STATEMENT OF  
FACTS UNDER RULE 56, SUB-PARAGRAPH 'C'—Filed  
Nov. 4, 1943

The Plaintiff, the Better Business Bureau of Washington, D. C. Inc., moves this Honorable Court as follows:

To give the Plaintiff a Summary Judgment in the full amount claimed for the following reasons:

1. There exists no disputed fact as all the facts have been agreed upon, and a Stipulation to this effect is now on file in the above entitled cause.

2. The only disputed question involved is "one of law," it being contended by this Plaintiff that "it is exempt from taxation of the Federal Social Security Tax" under exemption Section 1011, Title 42, USCA, being Chap. 531, Title VIII, Sec. 811, 49 Stat. 639 of the Social Security Law of August 14, 1935, as an educational and scientific corporation organized and exclusively operated for these purposes.

3. The Plaintiff is entitled to Summary Judgment of the amount claimed in the Complaint and is exempt from any future taxation under the existing law above stated.

4. The Brief of the Plaintiff covering the points and authorities supporting the contention is filed herewith and attached hereto.

12/23/43. Overruled.

Bailey, J., Lyon & Lyon. By R. B. H. Lyon, 1420 New York Avenue, N. W., Washington, D. C. Attorneys for Plaintiff.

[fol. 45] To: Hon. Edward M. Curran, United States Attorney and Attorney for the Defendant

Please take notice, that the undersigned will bring the above Motion on for hearing before this Court at the Motions Court Room in the District Court of the United States for the District of Columbia (Court House) on the — day —, 1943 at 10 a.m. of that day or as soon thereafter as counsel can be heard.

Lyon & Lyon, By R. B. H. Lyon, 1420 New York Avenue, N. W. Washington, D. C. Attorneys for Plaintiff.

IN UNITED STATES DISTRICT COURT

AFFIDAVIT IN SUPPORT OF MOTION OF PLAINTIFF FOR SUMMARY JUDGMENT UNDER RULE 56, SUBPARAGRAPH C UPON AN AGREED STATEMENT OF FACTS—Filed November 4, 1943

Personally appeared before me, a Notary Public, R. B. H. Lyon, who being sworn according to law, states:

That he is a member of the firm of Lyon & Lyon, Attorneys for the Plaintiff in the above entitled cause.

That there has been filed in the above entitled cause an Agreed Statement of Facts by the parties to this suit covering the entire statement of the case of the parties hereto, thereby eliminating all disputes relating to the facts in the case.

That in view of the above mentioned Agreed Statement of Facts the only question involved in the case to be decided is "one of law."

[fol. 46] That in support of the contention of the parties hereto the brief covering the points and authorities has been filed with the Motion for Summary Judgment and will be explained or enlarged thereon in oral argument before this Honorable Court.

R. B. H. LYON, subscribed and sworn to before me this 4th day of November 1943.

Ruth E. Angelo, Notary Public, D. C.

IN UNITED STATES DISTRICT COURT

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT—Filed November 10, 1943

Now comes the defendant, the United States of America, by its attorney, Edward M. Curran, United States Attorney in and for the District of Columbia, and moves the Court to enter summary judgment in favor of the defendant and against the plaintiff in the above-entitled action for the following reasons:

1. Upon the basis of the stipulation of agreed facts entered into by and between the respective parties herein (in-lieu of admissions and affidavits provided for in Rule 56 of the Federal Rules of Civil Procedure), the defendant is entitled to judgment in its favor as a matter of law.
2. Upon the basis of the facts as stipulated to, plaintiff is not exempt from taxation under the provisions of Section 1426 (b) (8) of the Internal Revenue Code and corresponding provisions of the Social Security Act and Federal Insurance Contribution Act.
3. Upon the basis of the facts as stipulated to, and as a matter of law, plaintiff is not entitled to a refund of the taxes sought to be recovered in this action.

[fol. 47] Wherefore, the defendant demands judgment, dismissing the complaint filed herein.

12/23/43. Sustained.

Bailey, J. Edward M. Curran, United States Attorney.

## IN UNITED STATES DISTRICT COURT

MÉMORANDUM OF OPINION—Filed December 23, 1943

I agree with the contention of the defendant that the Better Business Bureau of Washington, D. C., Inc., was not organized exclusively for educational purposes. The theory of the decision of the Circuit Court of Appeals of the 10th Circuit in Jones v. The Better Business Bureau of Oklahoma City, 123 F. 2d, 767, that exemptions of this nature should be liberally construed, is contrary to the theory of the Court of Appeals of this District. See National Rifle Association v. The District Unemployment Compensation Board, 134 F. 2d 524.

I am entirely in agreement with the reasoning and decision of the Municipal Court of Appeals of the District of Columbia in the case of The Better Business Bureau of Washington, D. C. v. The District Unemployment Compensation Board in holding that the plaintiff corporation was not organized exclusively for educational purposes.

The motion of the plaintiff for a summary judgment will be overruled and the motion of the defendant for a summary judgment will be sustained.

Jennings Bailey, Justice.

[fol. 48] IN UNITED STATES DISTRICT COURT

ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT; AND GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT—Filed February 2, 1944

Upon consideration of the motion filed by the plaintiff for summary judgment and of the motion filed by the defendant for summary judgment; and, upon further consideration of the pleadings and the arguments of counsel in open Court, and, being fully advised in the premises, it is, by this Court, this 2nd day of February, 1944,

Adjudged, Ordered and Decreed, as follows:

1. That the motion of the plaintiff for summary judgment be, and the same hereby is, denied.

2. That the motion of the defendant for summary judgment be, and the same hereby is, sustained.

No objection:

Jennings Bailey, Justice.

Lyon & Lyon, Attorney for Plaintiff.

**IN UNITED STATES DISTRICT COURT****NOTICE OF APPEAL—Filed April 14, 1944**

Notice is hereby given this 14th day of April, 1944, that the Better Business Bureau of Washington, D. C. Inc., the Plaintiff, hereby appeals to the United States Court of Appeals for the District of Columbia from the judgment of this Court entered on the 2nd day of February, 1944 in favor of the United States of America, the defendant, against said Better Business Bureau of Washington, D. C. Inc., the Plaintiff.

Lyon & Lyon, Attorneys for Plaintiff.

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**[fol. 49] IN UNITED STATES DISTRICT COURT****DESIGNATION OF ERROR—Filed April 14, 1944**

Plaintiff claims that the Court erred in rendering judgment for the Defendant in holding that the Plaintiff is not entitled to the exception as an education or scientific institution within the meaning of Sections 801 to 811, Chapter 531, Title VIII, 49 Stat. 636 to 639, of the Federal Social Security Act approved August 14, 1935, and amendment thereto, in that this Plaintiff was not organized and operated exclusively for educational or scientific purposes.

No dispute of facts are involved as there is an "Agreed Statement of Facts" in the Record which the Plaintiff contends shows that it is clearly an educational or scientific institution and was organized and operated exclusively for educational purposes as within the meaning of the Federal Social Security Act of August 14, 1935, and amendments thereto, and this Court erred in holding to the contrary under Sections 801 to 811, Chapter 531, Title VIII, 49 Stat. 636 to 639, of the above mentioned Act.

Lyon & Lyon, Attorneys for Plaintiffs.

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**IN UNITED STATES DISTRICT COURT****DESIGNATION OF RECORD—Filed April 14, 1944**

I. Complaint.

II. Order Extending Time to file Answer of defendant.

III. Answer of Defendant.

IV. Agreed Statement of Facts and Supplemental Stipulation.

V. Plaintiff's Motion for Summary Judgment on Agreed Statement of Facts and Affidavit in Support thereof, under Rule 56, sub-par. C.

[fol. 50] VI. Defendant's Motion for Summary Judgment.

VII. Memorandum Opinion of Justice Jennings Bailey.

VIII. Entry of Judgment for Defendant on February 2nd, 1944.

IX. Notice of Appeal in behalf of Plaintiff.

Lyon & Lyon, Attorneys for Plaintiff.

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[fol. 51] IN UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA, JANUARY TERM, 1945

No. 8765.

BETTER BUSINESS BUREAU OF WASHINGTON, D. C., INC., Appellant,

vs.

UNITED STATES OF AMERICA, Appellee

MINUTE ENTRY—January 19, 1945

Argument commenced by Mr. Rutherford B. H. Lyon, attorney for appellant, continued by Mr. Fred J. Neuland, attorney for appellee, and concluded by Mr. Rutherford B. H. Lyon.

[fol. 52] IN UNITED STATES COURT OF APPEALS, DISTRICT  
OF COLUMBIA

No. 8765

BETTER BUSINESS BUREAU OF WASHINGTON, D. C., INC., Appellant,

v.

UNITED STATES OF AMERICA, Appellee

Appeal from the District Court of the United States for the  
District of Columbia

Argued January 19, 1945. Decided February 19, 1945.

*Mr. Rutherford B. H. Lyon*, with whom *Mr. Simon Lyon* was on the brief, for appellant.

*Mr. Fred J. Neuland*, Special Assistant to the Attorney General with whom *Messrs. Samuel O. Clark, Jr.*, Assistant Attorney General, *Sewall Key* and *Robert N. Anderson*, Special Assistants to the Attorney General, *Edward M. Curran*, United States Attorney, and *Daniel B. Maher*, Assistant United States Attorney, were on the brief, for appellee.

Before Groner, Chief Justice, and Miller and Arnold, Associate Justices.

OPINION

ARNOLD, Associate Justice:

The sole question involved in this appeal is whether Better Business Bureau of Washington, D. C., Inc., is exempt from social security taxes as a corporation organized and operated exclusively for educational or scientific purposes within the meaning of the Social Security Act.<sup>1</sup> Better Business

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<sup>1</sup> 49 Stat. 639 (1935), 42 U. S. C. § 1011 (b): "The term 'employment' means any service, of whatever nature, performed within the United States by an employee for his employer, except . . . (8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Bureau is a non-profit organization whose members are business and professional men of high standing. Its funds come exclusively from membership fees and contributions. The Articles of Incorporation describe its purposes as follows:

\*\*\* \* \* the object for which it is formed is for the mutual welfare, protection and improvement of business methods among merchants and other persons engaged in any and all business or professions and occupations of every description whatsoever that deal [fol. 53] directly or indirectly with the public at large, and for the educational and scientific advancements of business methods among persons, corporations or associations engaged in business in the District of Columbia so that the public can obtain a proper, clean, honest and fair treatment in its dealings or transactions with such merchants, tradesmen, corporations, associations or persons following a profession and at the same time protecting the interest of the latter classes of businesses to enable such as are engaged in the same to successfully and profitably conduct their business and for the further purpose of endeavoring to obtain the proper, just, fair and effective enforcement of the Act of Congress approved May 29th, 1916, otherwise known as 'An Act to prevent fraudulent advertising in the District of Columbia'."

In carrying out these charter purposes the Bureau's work is divided into five subdivisions: (1) the prevention of business fraud; (2) the fighting of fraud; (3) the elevation of business standards by education; (4) the education of the consumer as a buyer; and (5) assistance and cooperation with various local and Federal agencies interested in law enforcement.

The court below entered a summary judgment denying an exemption to Better Business Bureau on the ground it was not organized and operated exclusively for educational purposes. We believe this judgment should be affirmed. Educational programs like that of Better Business Bureau are often of great benefit to the community. But there is no doubt that at least one of the reasons they are carried on by businessmen is that the establishment of better buyer and seller relationship and the elimination of unethical

practices are to the long run commercial profit of the business men who subscribe to them. Such educational campaigns are becoming part of the regular business activities of every industry. Trade associations and chambers of commerce, both local and national, carry them on for mixed commercial and benevolent motives.<sup>2</sup> The difference between a program of adult education carried on by a university and one carried on by a business league cannot be expressed by abstract definition of the educational program of each. The subject matter of the two educational programs may be the same. Nevertheless, there is a difference and it arises out of the underlying commercial motive of a business league and the absence of commercial motive in a university.

Business leagues, chambers of commerce and the like, are omitted from the list of organizations exempt from social security taxes. That this omission is intentional is shown by the fact that such organizations are expressly included among the exemptions given in Section 101 of the Revenue Act.<sup>3</sup> Moreover, in 1939 an amendment was made to the Social Security Act adding new exemptions.<sup>4</sup> It provided that service performed by those in the employ of organizations exempt under Section 101 of the Revenue Act should also be exempt under the Social Security Act if the remuneration for such service does not exceed \$45.00. By necessary implication this means that for employees whose remuneration exceeds that sum business leagues are not exempt from social security taxation.

And finally we are supported in our conclusion by the interpretation put upon the Social Security Act exemption by the Treasury in its regulations made pursuant to the

<sup>2</sup> See *Memphis Chamber of Commerce v. City of Memphis*, 144 Tenn. 291, 232 S. W. 73 (1921).

<sup>3</sup> The record discloses that appellant, Better Business Bureau, has been exempted from Federal Income Tax under Section 101 (7) which exempts the following organizations: "Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual; . . ." Revenue Act of 1936, 49 Stat. 1648 (1936).

<sup>4</sup> 53 Stat. 1360 (1939).

terms of that Act.<sup>5</sup> The Treasury defines an exempt educational organization as one designed primarily for the improvement or development of the capabilities of the individual.<sup>6</sup> This applies to such an organization as a university. It does not describe Better Business Bureau. The Treasury regulation goes on to state that "under exceptional circumstances" an educational institution is exempt "whose sole purpose is the instruction of the public," or "whose primary purpose is to give lectures on subjects useful to the individual and beneficial to the community, even though an association of either class has incidental amusement features." Better Business Bureau comes neither within the Treasury definition nor its exception.<sup>7</sup> It certainly has other purposes than lecturing and instruction to the public, and there are no exceptional circumstances about its activities. Indeed, to exempt Better Business Bureau would be to exempt nearly every trade association and chamber of commerce which is engaged in similar activities. And thus we would read back into the Social Security Act an exemption of business leagues which was omitted by Congress.

<sup>5</sup> "These regulations were prepared by the department charged with the duty of enforcing the Acts . . . . It is the settled rule that the practical interpretation of an ambiguous or doubtful statute that has been acted upon by officials charged with its administration will not be disturbed except for weighty reasons." *Brewster v. Gage*, 280 U. S. 327, 336 (1930); *White v. Winchester Country Club*, 315 U. S. 32, 41 (1942); Mertens, *Law of Federal Income Taxation* (1942), § 3.20.

<sup>6</sup> Regulation 91, Bureau of Int. Rev., 1 Fed. Reg. 1764 (1936).

<sup>7</sup> Cf. *Consumers' Research, Inc. v. Evans*, 128 N. J. L. 95, 24 A. (2d) 390, 392 (1942): "Moreover it does not seem to us that the prosecutor is engaged exclusively in scientific and educational work as contemplated by the words of the Statute. Its charter does not so limit it. It is not enough that the work be scientific and educational, as doubtless in a broad sense this work was, but it must be devoted exclusively to such objects."

The Circuit Court of Appeals for the Tenth Circuit has reached a conclusion contrary to ours, one judge dissenting.<sup>8</sup> The Municipal Court of Appeals for the District of Columbia has followed the principles outlined here.<sup>9</sup> In the absence of controlling authority we think this court should follow the Treasury interpretation of the Act. That interpretation is entitled to great weight and should not be set aside except for compelling reasons.<sup>10</sup>

The suggestion that Better Business Bureau is exempt as a corporation organized exclusively for charitable purposes would scarcely deserve consideration were it not for our decision in *International Reform Federation v. District Unemployment Comp. Bd.*<sup>11</sup> In that case, with one judge dissenting, this court exempted from the District of Columbia unemployment compensation tax an organization interested [fol. 55] in improving the morals of the community and in lobbying for sumptuary legislation on the ground that these purposes were charitable. While this is a broad interpretation of the term "charitable,"<sup>12</sup> it cannot apply to the case before us for two reasons. In the first place, International Reform Federation had no conceivable business purpose; the reforms which it promoted had nothing to do with the buying and selling of goods. Even if reform be considered charity Better Business Bureau is not organized for that exclusive purpose. In the second place, the Treasury regulation<sup>13</sup> interpreting the Social Security Act, which we feel bound to follow, limits the scope of charitable activities to those whose purpose is the relief of the poor.

Affirmed.

Groner, C. J., concurs in the result.

<sup>8</sup> *Jones v. Better Business Bureau of Oklahoma City, Inc.*, 123 F. (2d) 767 (C. C. A. 10th, 1941).

<sup>9</sup> *Better Business Bureau of Washington, D. C., Inc. v. District Unemployment Comp. Bd.*, 34 A. (2d) 614 (Mun. App. D. C. 1943).

<sup>10</sup> See *supra* note 5.

<sup>11</sup> 76 U. S. App. D. C. 282, 131 F. (2d) 337 (1942).

<sup>12</sup> Cf. *National Rifle Ass'n of America v. Young*, 77 U. S. App. D. C. 290, 134 F. (2d) 524 (1943).

<sup>13</sup> *Supra* note 6.

[fol. 56] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA, JANUARY TERM, 1945

No. 8765

BETTER BUSINESS BUREAU OF WASHINGTON, D. C. Inc., Appellant,

vs.

UNITED STATES OF AMERICA, Appellee

Appeal from the District Court of the United States for the District of Columbia

JUDGMENT—Filed Feb. 19, 1945

This cause came on to be heard on the transcript of the record from the District Court of the United States for the District of Columbia, and was argued by counsel.

On consideration whereof, It is now here ordered and adjudged by this Court that the order of the said District Court appealed from in this cause be, and the same is hereby, affirmed.

Per Mr. Justice Arnold.

Dated. February 19, 1945.

Mr. Chief Justice Groner concurs in the result.

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[fol. 57] [File endorsement omitted]

IN UNITED STATES COURT OF APPEALS, DISTRICT OF COLUMBIA

[Title omitted]

DESIGNATION OF RECORD—Filed March 7, 1945

The Clerk will please prepare a certified transcript of record for use on petition to the Supreme Court of the United States for writ of certiorari in the above-entitled cause, and include therein the following:

1. Appendices to briefs of the parties.
2. Minute entry of argument.

3. Opinion.
4. Judgment.
5. This designation.
6. Clerk's certificate.

Simon Lyon, R. B. H. Lyon, Attorneys for Appellant.

Copy served on the attorneys for the appellee, this 7th day of March, 1945.

Simon Lyon, R. B. H. Lyon, 701 Evans Building,  
Washington, D. C., Attorneys for Appellant.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

I, Joseph W. Stewart, Clerk of the United States Court of Appeals for the District of Columbia, hereby certify that the foregoing pages numbered from 1 to 57, both inclusive, constitute a true copy of the joint appendix and the proceedings of the said Court of Appeals as designated by counsel for appellant in the case of: Better Business Bureau [fol. 58] of Washington, D. C., Inc., Appellant, vs. United States of America, Appellee, No. 8765, January Term, 1945, as the same remain upon the files and records of said Court of Appeals.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court of Appeals, at the City of Washington, this eighth day of March, A. D. 1945.

Joseph W. Stewart, Clerk of the United States Court of Appeals for the District of Columbia. (Seal.)

[fol. 59] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed April 30, 1945

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia is granted and the case is transferred to the summary docket.

An it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied

the petition shall be treated as though filed in response to such writ.

Endorsed on Cover: File No. 49,542. U. S. Court of Appeals, District of Columbia. Term No. 52. Better Business Bureau of Washington, D. C., Inc., Petitioner, vs. The United States of America. Petition for a writ of certiorari and exhibit thereto. Filed March 29, 1945. Term No. 52, O. T., 1945.

(9134)